

REMARKS

In response to the final Office Action of May 22, 2003, Applicants have amended the claims, which when considered with the following remarks, is deemed to place the present application in condition for allowance. Favorable consideration and allowance of all pending claims is respectfully requested. Amendments and/or cancellation of claims have been made in the interest of expediting prosecution of this case. Applicants reserve the right to prosecute the same or similar subject matter in this or another application.

Claims 1-63 are now pending in this application.

Initially, the Examiner has indicated in the present Office Action and in the Office Action dated November 14, 2002 that Claims 15, 16, 28 and 29 contain allowable subject matter over the prior art of record. Accordingly, the Examiner has objected to these claims for depending on claims that are rejected and stated that dependent Claims 15, 16, 28 and 29 would be allowable if rewritten in independent claim format containing the limitations of the independent claims. By this Amendment, Claims 15 and 28 have been amended into independent format thus obviating this objection. Accordingly, immediate allowance of amended Claims 15, 16, 28 and 29 is respectfully requested. Also by this Amendment, new Claims 38-47 have been added to ultimately depend from allowable Claims 15 and 16 and new Claims 48-57 have been added to ultimately depend from allowable Claims 28 and 29. Thus, immediate allowance of new Claims 38-57 is also warranted and such is respectfully requested.

Additionally by this Amendment, Claims 1, 3, 5, 10, 17, 19, 21, 30, 32 and 34 have been amended to further define the embodiments claimed herein and new Claims 58-63 have been added. The present Amendment has been formatted in accordance with the Pre-OG notice set forth in the U.S. Patent and Trademark Office's website (i.e., www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm). Applicants

composition *consisting essentially of* (a) a major amount of an internal combustion engine hydrocarbon fuel containing at least one alcohol, it being provided that methyl tertiary-butyl ether is substantially absent from the fuel; and, (b) a friction modifying amount of a reaction product of at least one natural or synthetic oil and at least one alkanolamine.” As such, the claims as presently amended now specifically exclude the addition of the higher ethoxylated alcohol and ethoxylated fatty acid of Ahmed

In contrast thereto, Ahmed discloses a fuel composition containing (a) a hydrocarbon fuel containing from about 25 to about 40% by volume of ethanol and (b) a polymeric fuel additive comprising a Superamide of an alkyl ester of a fatty acid and an alcohol amine, and a higher ethoxylated alcohol and an ethoxylated fatty acid. To produce the fuel composition of Ahmed, a fuel additive containing a Superamide of an alkyl ester of a fatty acid and an alcohol amine must be combined with a higher ethoxylated alcohol and an ethoxylated fatty acid to ethoxylate the Superamide (see column 4, lines 11-23) which is then added to the hydrocarbon fuel. Thus, the addition of the higher ethoxylated alcohol and an ethoxylated fatty acid to the fuel composition unquestionably materially affects the basic and novel characteristics of Ahmed’s fuel composition by *absolutely* requiring the inclusion of the material higher ethoxylated alcohol and an ethoxylated fatty acid to form the polymeric fuel additive and its use in the fuel composition.

Applicants instead employ a fuel composition consisting essentially of (a) a major amount of an internal combustion engine hydrocarbon fuel containing at least one alcohol, it being provided that methyl tertiary-butyl ether is substantially absent from the fuel; and (b) friction modifying amount of a reaction product of at least one natural or synthetic oil and at least one alkanolamine. Thus the addition of Ahmed’s higher ethoxylated alcohol and ethoxylated fatty acid to the claimed fuel composition would affect its utility in an internal combustion engine. Accordingly, amended independent Claims 1, 17 and 30, which presently

respectfully submit that no new matter has been added to this application nor have any new issues been raised by this amendment. For example, support for new Claims 58 and 61 can be found at least on page 4, lines 8-14 and page 6, lines 7-24 and support for new Claims 60 and 63 can be found on page 7, lines 1-4. Accordingly, entry and consideration of the present Amendment is deemed appropriate as it places the application in condition for allowance.

A further indication by the Examiner that dependent Claims 11-13 and 26 contain allowable subject matter over the prior art of record and would be allowable if rewritten in independent format to include the limitations of the independent claim is noted with appreciation.

The Examiner has maintained the provisional rejection of Claims 1-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-40 of co-pending Application No. 09/708,237. As applicants have abandoned co-pending Application No. 09/708,237, withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claims 1-10, 14, 17-25, 27 and 30-37 under 35 U.S.C. §102(a) as being anticipated by Ahmed U.S. Patent No. 6,074,445 ("Ahmed"). Specifically, the Examiner maintains in the Office Action that although the Examiner agrees that applicants amended claims reciting "a friction modifying amount of a friction modifier consisting essentially of a reaction product of at least one natural or synthetic oil and at least one alkanolamine" set forth in the Amendment dated February 13, 2003 limits the scope of the claims to the specific ingredients, since the claims have the open-ended language "comprising" the claims would therefore not exclude the addition of the higher ethoxylated alcohol and ethoxylated fatty acid of Ahmed.

It is respectfully submitted that the claims, as presently amended, are now patentably distinct from Ahmed. Amended independent Claims 1, 17 and 30 presently recite a "fuel

recite a "fuel composition consisting essentially of (a) a major amount of an internal combustion engine hydrocarbon fuel containing at least one alcohol, it being provided that methyl tertiary-butyl ether ("MTBE") is substantially absent from the fuel; and, (b) a friction modifying amount of a reaction product of at least one natural or synthetic oil and at least one alkanolamine", are believed to be patentably distinct over the subject matter of Ahmed.

Claims 2-10, 14, 18-25, 27 and 31-37 ultimately depend from amended independent Claims 1, 17 and 30 and therefore contain the same limitations as amended independent Claims 1, 17 and 30. Accordingly, for at least the same reasons given for amended independent Claims 1, 17 and 30, Claims 2-10, 14, 18-25, 27 and 31-37 are believed to be patentable over the subject matter of Ahmed. Thus, withdrawal of the rejection under 35 U.S.C. §102(a) and allowance of Claims 1-10, 14, 17-25, 27 and 30-37 is respectfully requested.

For the foregoing reasons, amended Claims 1-37 and new Claims 38-63 as presented herein are believed to be in condition for immediate allowance. Such early and favorable action is earnestly solicited.

Respectfully submitted,



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